

DOD: 01/11/10		PAULETTE JANIAN , attorney for Executor Rosalind Logan, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		ROSALIND LOGAN was appointed Executor on 03/29/10 without bond.	CONTINUED FROM 05/29/13 Minute Order from 05/29/13 states: Mr. Logan objects to Ms. Janian being relieved as counsel. Matter is continued to 07/12/13. The Court directs Ms. Janian to provide notice to Rosalind Logan and advise her that she needs to be personally present on 07/12/13. The Court indicates to the parties that it intends to relieve Ms. Janian as counsel once notice has been provided, at which time her appearance will not be necessary.
Cont. from 052913			
	Aff.Sub.Wit.	Letters were issued on 03/29/10.	Note: A Status Hearing will be set as follows: <ul style="list-style-type: none"> Friday, August 16, 2013 at 9:00am in Dept. 303 regarding Filing of the Accounting and/or Petition for Final Distribution.
✓	Verified	Petitioner states Rosalind Logan is a beneficiary of the estate together with five other beneficiaries. The Executor's phone numbers are not current. Letters dated 02/10/11, 03/20/11, 04/12/11, 05/04/11, 08/22/11, 02/01/12, 10/24/12 and 03/26/13 have been unanswered. All correspondence addressed to Rosalind Logan at 2704 B Street, Selma, CA, her last known address, has not been returned. The last letter dated 03/26/13, included a Substitution of Attorney and a pre-addressed, stamped envelope. Nothing has been returned. The Will of the decedent left this home to the Executor and she has had possession of the property since the decedent's death. The attorney drove to the home about 1 month ago and it appears to be occupied. The property is fenced with a locked gate, therefore the attorney was not able to make contact with anyone inside the home. According to the Executor's CPA, he has not had contact with her since 2010 and remarked "she is hard to get a hold of". Notice of Status Hearing filed 06/03/13 indicates that Notice was sent to Rosalind Logan and notified that she was too appear in court on 07/12/13.	
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202	Reviewed by: JF Reviewed on: 07/10/13 Updates: Recommendation: File 1 – Johnsen	
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Olivia, age 13	STEPHANIE LASSLEY , Mother, is Guardian of the Estate.	NEEDS/PROBLEMS/COMMENTS:
	The Second Account was settled on 6-13-13.	1. Need receipt for blocked account (Form MC-356).
Aff.Sub.Wit.	Order 6-13-13, authorized Guardian to withdraw the balance remaining after payment of authorized compensation and expenses from a certain account and reinvest it into a Morgan Stanley blocked account.	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail	Order to Deposit Money Into Blocked Account indicates \$47,265.62 to be deposited to a blocked account.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: skc
Status Rpt		Reviewed on: 7-9-13
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 2 – Lassley

Graceson, age 15	STEPHANIE LASSLEY , Mother, is Guardian of the Estate.	NEEDS/PROBLEMS/COMMENTS:
		2. Need receipt for blocked account (Form MC-356).
Aff.Sub.Wit.	Order 6-13-13, authorized Guardian to withdraw the balance remaining after payment of authorized compensation and expenses from a certain account and reinvest it into a Morgan Stanley blocked account.	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail	Order to Deposit Money Into Blocked Account indicates \$48,508.47 to be deposited to a blocked account.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: skc
Status Rpt		Reviewed on: 7-9-13
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 3 – Lassley

DOD: 6-29-10		<p>NORA ALICE BORGES was appointed Administrator with Will Annexed with Full IAEA without bond pursuant to petition by Surviving Spouse SUZY BORGES PRICE. Letters issued to NORA ALICE BORGES on 1-10-11.</p> <p>On 6-13-13, the Court set this status hearing for failure to file Inventory and Appraisal and Petition for Final Distribution.</p> <p>Notice was sent to Attorney Richard Wheeler, Administrator Nora Alice Borges, and Surviving Spouse Suzi Borges Price on 6-13-13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Need Inventory and Appraisal. Probate Code §8800. <i>Note: I&A is overdue by over two years per Probate Code §8800(b).</i> Need first account or petition for final distribution. <i>Note: Closing the estate is over a year overdue per Probate Code §12200.</i> <p><i>Note:</i> It was originally estimated the estate at a total of \$17,680, which consisted of personal property, the nature of which is unknown, valued at \$10,000.00 and real property valued at \$151,000, but encumbered at \$143,320, a net estimated value of \$7,680.</p> <p><i>Note:</i> The will devises the entire estate to Surviving Spouse Suzy Borges Price.</p>
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 7-9-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 – Price</p>	

(1) First Account and Report of Conservator, (2) Petition for Its Settlement, (3) for Attorney Fees (Prob. C. 2620, 2640 CRC 7.703(e), 7.750-7.751, & 7.754 and Local Rule 7.16A)

			KATINA SAPIEN LOZANO PAULEY, conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 5/2/2013. As of 7/10/13 the following issues remain: 1. Petitioner inadvertently used the conservatorship account debit card to make the following purchases: <ul style="list-style-type: none"> 03/27/12 Budget Rental Car \$103.16 03/29/12 Carnival Cruise \$1,000.00 03/29/12 Expedia Hotel \$106.65 03/30/12 Amtrak \$79.20 04/06/12 America Airlines \$1,440.00 07/02/12 Chevron \$20.06 07/16/12 Budget Rental Car \$122.19 Petition states the total owed back to the conservatee is \$2,871.26 and she has made a total of \$1,700.00 in payments towards the remaining balance owed of \$1,171.26. However, Receipt Schedule shows only \$700 paid back the Chase Bank Checking Account ending in #6758. – Declaration of Attorney states the Conservatee owed the Conservator \$1,000.00. 2. Schedule A2 lists Social Security receipts from October 2011 to April 2012. Where are the Social Security receipts for May 2012 to September 2012? Totaling approximately \$7,150.00. – Declaration of Attorney states from May – September 2012 the Conservator began depositing the Social Security payments into the Trust bank account without realizing she was supposed to keep the Social Security benefits in the conservatorship account. <u>Please see additional page</u>
			Account period: 09/19/2011 – 09/18/2012	
Cont. from 041113, 050213			Accounting - \$89,782.08	
	Aff.Sub.Wit.		Beginning POH - \$37,268.63	
✓	Verified		Ending POH - \$25,043.72	
	Inventory		Conservator – Waives	
	PTC		Attorney - \$4,035.00 (17 Associate Attorney hours @ \$200/hr and 14 paralegal hours @ \$100/hr.)	
	Not.Cred.		Current Bond is \$60,000.00	
✓	Notice of Hrg		Petitioner prays for an Order:	
✓	Aff.Mail	w/	1. Approving, allowing and settling the first account.	
	Aff.Pub.		2. Authorizing the conservator and attorney fees and commissions.	
	Sp.Ntc.		3. Payment of the bond fee.	
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
				Reviewed by: KT
				Reviewed on: 7/10/13
				Updates:
				Recommendation:
				File 5 - Lozano

3. Schedule C5 of the disbursements shows furniture in the amount of \$200.00 from Ashley Furniture however the furniture is not listed on the Property on Hand. – Declaration of Attorney states the conservator purchased a new bed and mattress for the conservatee – Note: Declaration still doesn't indicate why the bed and mattress are not included in the property on hand.
4. There are several cash withdrawals in a two week span in February 2012 and March 2012 for the "Conservatee's personal needs" totaling \$610. Need Clarification. – Declaration of Attorney states cash withdrawals were used to pay for the conservatee's bills. Conservator is unable to locate receipts and has therefore deposited \$610.00 of her own money back into the conservatorship.
5. Schedule C6, Disbursements, shows a transfer on 09/20/2011 from Chase Bank Checking Account ending in #1721 to checking account ending in #4963 in the amount of \$1,300.00 however there is no corresponding receipt. – Declaration of Attorney states there is no corresponding receipt because this sum was already accounted for in the \$1,421.22 that is listed on the inventory and appraisal. If it had been listed on the Receipt Schedule it would have been accounted for twice. Examiner note: This does not make sense. If you start with an amount (the inventory and appraisal) you take money out (disbursement) you have less than you begin with and where did it go? If you start with an amount (Inventory and appraisal) and you take money out (disbursement) then you have a receipt showing the transfer (receipt) everything balances. Probate Code § 1063(b) states no reporting is required between cash or accounts in a financial institution. Therefore it appears that this transaction should not have been listed at all.
6. Schedule C6, Disbursements, shows an online bank transfer on 05/24/2012 to checking accounting ending in #1261 in the amount of \$10,371.41 however there is no checking account ending in #1261 listed in the Inventory and Appraisal or Property on Hand. – Declaration of Attorney states the checking account ending 1261 is the conservatee's account in her living trust. This living trust is not related to the conservatorship. Examiner note: Why is the conservator transferring assets from the Conservatorship to the Trust?
7. Schedule C6, Disbursements, shows a transfer to Trust checking #1261 on 03/30/2012 in the amount of \$1,966.28. – Declaration of Attorney states the Conservator erroneously took funds from the trust account #1261 to pay for Attorney fees. She was advised by the attorney that the fees were to come from the conservatorship account so she transferred the funds back in to the Trust account. Examiner note: There does not appear to be an order allowing \$1,966.28 in attorney fees. The attorney was awarded fees in an order dated 7/16/2012 in the sum of \$8,874.83 and there is a disbursement showing payment of those fees. In addition Attorney John Barrus was awarded attorney fees and his fees are also listed in the disbursement schedule.
8. Schedule C6, Disbursements, shows three over draft fees totaling \$83.00. Need clarification. – Declaration of Attorney states the Conservator made purchases without realizing there were insufficient funds.
9. Schedule E, Property on Hand, indicates that there is a Chase Bank CD Account ending in #5483 in the amount of \$20,090.45 however it has not been inventoried and it is unclear how it came into the conservatorship established. – Declaration of Attorney states the Conservatee had an existing account at Chase ending in #6795 with a balance of \$10,002.78 which was deposited into #4963 pursuant to the court's order appointed Katina as Conservator. The account was opened with \$20,000.00 which was withdrawn from account #4963 and deposited into a blocked account at Chase Bank #5483 on 10/12/11.

Please see additional page

10. Schedule E, Property on Hand, indicates that there is \$1,452.00 in Joanne Sanoian Client Trust Account. Need clarification as to why these funds are being held by the attorney. – Declaration of Attorney states that in their petition for attorney fees that was heard in 6/4/12. Prior to the hearing the Conservator provided the attorney's office with a money order for the fees. The funds were held in the attorney client trust account until the hearing. At the hearing the award of attorney fees was reduced by the court. The remaining amount is held in the attorney's client trust account to pay for any costs that may be incurred in the conservatorship proceedings.
11. Bank statements show that the balance of the conservatee's bank accounts totaled \$63,380.39 on 9/15/11 just 4 days prior to the establishment of the conservatorship on 9/19/11. However, the inventory and appraisal lists the bank accounts at \$32,968.74 a difference of \$30,411.65. Need clarification. – Declaration of Attorney states the bank statement is misleading in regard to the balance of the accounts. Upon closer examination of the statements, you can see that the beginning balance of #1721 was dated 9/15/11 in the amount of \$31,832.98. The beginning balance for account #4963 is dated 9/23/11 in the amount of \$31,547.41, reflecting the transfer of \$30,317.35 from account #1721.
12. Petition states that the reason for the establishment of the conservatorship was that the conservatee's son, Richard Lozano's wife fraudulently used the conservatee's credit cards. There is no indication in the file that the Conservator has initiated any action for the return of the funds that were fraudulently taken. Court may require more information on the status of the funds fraudulently taken. – Declaration of Attorney states the conservator has not initiated action against Richard Lozano. The costs of pursuing an action against Richard Lozano's wife would be prohibitive, given the size of the estate and her need for expensive skilled nursing care at the end of her life. The conservatee is now deceased.

Note: If this accounting is approved a status hearing will be set as follows:

- **Friday, August 16, 2013 at 9:00 a.m. in Dept. 303** for the filing of the Final Account.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearing on the matter the status hearing will come off calendar and no appearance will be required.

The sale was made to a related party without a broker. Bobby Slayton is the brother of the settlor, Jesse C. Slayton, and Joyce Slayton is the wife of Bobby Slayton. Bobby Slayton and Joyce Slayton are the parents Debbie Slayton, the Trustee.

Petitioners were advised of the sale and are informed and believe that the consideration for the sale of the residence was not unreasonable notwithstanding the relationship between the Trustee and the purchasers of the property.

Following the sale, the Trustee distributed cash in the amount of \$65,000 to each of the three beneficiaries. The Trustee indicated that each of the beneficiaries were to receive at least \$20,000.00 more; however no additional funds have been distributed to the beneficiaries, nor has any additional information been provided to the beneficiaries.

Pursuant to California law, the Trustee is required to account to the beneficiaries of the Trust. On February 23, 2011, counsel for Petitioners served a demand for an accounting on the Trustee, Debbie Slayton.

To date, an accounting has not been received from the Trustee.

Wherefore, Petitioners request this court to order the Trustee to render an accounting of the administration of the Trust, in the form and manner prescribed by law.

Petitioner further requests a review of the acts of the attorney-in-fact and for further accounting by attorney-in-fact.

Petitioner alleges Jesse C. Slayton was married to Martha Jane Slayton for more than 49 years. Martha died in July 2008. Petitioners believe that Jesse and Martha previously established a Revocable Living Trust Agreement known as the **“Jesse C. Slayton and Martha Jane Slayton Revocable Living”** dated June 1, 2005 (the Jesse and Martha Trust). A page entitled “Overview of pertinent Information” is attached as Exhibit F; the document indicates that the Jesse and Martha Trust may have been established by Jesse C. Slayton individually, and acting as Attorney-in-Fact for his wife, Martha. Petitioners have been unable to obtain a copy of the Jesse and Martha Trust.

Petitioners further believe, based on statements made by Jesse C. Slayton that prior to the establishment of the Jesse and Martha Trust, he had cash assets in excess of \$400,000.00.

Petitioners believe that at some time prior to July 29, 2009, Debbie Slayton became trustee of the Jesse and Martha Trust. On July 29, 2009, Debbie Slayton signed an “Affidavit of Change of Trustee,” declaring that the former Trustee, Jesse C. Slayton was incapacitated, and that she has succeeded to the position of trustee.

Please see additional page

On 11/29/2009, a deed was recorded transferring Jesse's residence from Debbie Slayton as Trustee of the Jesse and Martha trust to Jesse C. Slayton, a married man. On that same day, there as a recorded deed transferring the residence from Jesse C. Slayton, a married man, to Debbie Slayton, Trustee of the Slayton Family Grantor Trust dated July 29, 2009.

Petitioners believe that following Martha's death, Jesse was the primary beneficiary of the Jesse and Martha Trust.

Petitioners believe that Debbie Slayton, as successor Trustee of the Jesse and Martha Trust and/or as attorney in fact for Jesse Slayton, transferred and/or dissipated assets of the Trust, or assets belonging to Jesse Slayton to and for her own benefit and/or transferred same to third parties, the identities of whom is unknown to Petitioners.

Petitioners allege that Debbie Slayton regularly used Jesse's credit card for her personal benefit. After Jesse's death, a family member observed that Debbie "like[d] spending your uncle Charlie's money" (referring to Jesse C. Slayton, who was known as "Uncle Charlie" to some family members).

Wherefore, Petitioners request that Debbie Slayton account for her actions as attorney in fact of Jesse C. Slayton from 5/3/2009, and any and all actions taken as trustee of the Jesse and Martha Trust, in the manner prescribed by law.

Petitioners allege that in administering the Trust after the death of Jesse C. Slayton, the Trustee Debbie Slayton breached one or more fiduciary duties owing to the beneficiaries of the Slayton Family Trust, including without limitation, the duty to administer the trust solely in the interest of the beneficiaries; the duty to preserve trust property; and the duty to make trust property productive. As a result of the Trustee's actions, Petitioners have been damaged by the loss of their beneficial interest in the trust, in an amount according to proof. That as a result of the Trustee's actions, petitioners have been further damaged in that Petitioners have been required to retain an attorney and incur attorney's fees to assert their rights to trust property, and against the Trustee, in an amount according to proof. That the actions of the Trustee were outrageous and intentional and as such the Trustee's conduct should be punished by an award of exemplary damages against the Trustee and in favor of the beneficiaries.

At all times alleged in this petition, Jesse C. Slayton was elderly and over the age of 65 years old. For a number of years prior to his death, commencing in 2004 or early 2005, Debbie Slayton lived in Jesse's residence under an agreement that she would provide for his need and would receive room and board and a monetary stipend. She occupied the position of care custodian until approximately 2008 when Jesse's declining health required that he move into Sierra Villa, a care facility.

Please see additional page

Petitioners allege, for some years prior to his death, Jesse was suffering from diminished mental capacity, was subjected to being taken advantage of by the Respondents. Respondents exercised complete dominion and control over Jesse's assets and gained knowledge of his assets and property.

In addition, Debbie Slayton sequestered and prevented Jesse from having contact with other family members, including Petitioner, Cynthia F. Hill, specifically stating that Cynthia was not to be permitted to visit with Jesse, her father, unless Debbie was present.

The conduct of Respondents and each of them, resulted in the deprivation of Jesse's assets, which were necessary for his care and ongoing maintenance.

The above-described conduct constitutes financial abuse under Welfare and Institutions Code section 15657 and 15610.30.

Respondents, and each of them are guilty of recklessness, oppression and fraud; respondents and each of them acted with malice against Jesse in the commission of the above described abuse.

Pursuant to Welfare and Institutions Code 15657(a) Respondents and each of them are liable for reasonable attorney's fees and costs necessarily incurred in bringing an prosecuting this claim.

Petitioners believe that Respondents and each of them have wrongfully taken, transferred, concealed and otherwise deprived Jesse of property belonging to the Slayton Family Trust and/or the Jesse and Martha Trust and/or Jesse C. Slayton. Said Respondents may include, without limitation, **Debbie Slayton, Bobby Slayton**, her father, and/or **Joyce Slayton**, her mother.

Bobby Slayton died on 5/13/2012. To Petitioner's knowledge no probate proceedings have been commenced.

Petitioners believe that at the time the property or assets of Jesse C. Slayton and/or the trusts were transferred, the transferees knew the property were assets of the Slayton Family Trust, the Jesse and Martha Trust or Jesse C. Slayton.

As a result of such transfer, the transferees received and held the property or assets as Constructive Trustee for and on behalf of the beneficiaries of the Trust, namely Cindy Hill, Lewis Slayton and Shirley Alexander. Respondents, and each of them, should be ordered to surrender and deliver said property to Petitioners.

Petitioners are unaware of the beneficiaries of the Jesse C. Slayton and Martha Jane Slayton Revocable Living Trust dated June 1, 2005.

Please see additional page

Wherefore, Petitioners pray:

- 1. That Debbie Slayton be ordered to account and report:**
 - a. For her actions as Trustee of the Slayton Family Trust from July 29, 2009;**
 - b. For her actions as Trustee or Successor Trustee of the Jesse C. Slayton and Martha Jane Slayton Revocable Living Trust dated June 1, 2005;**
 - c. For any and all actions taken as attorney-in-fact for Jesse C. Slayton, pursuant to power of attorney executed May 3, 2005;**
- 2. For damages in an amount according to proof;**
- 3. For exemplary damages in an amount according to proof;**
- 4. For damages assessed on account of acts of elder abuse, including but not limited to actual damages, exemplary and punitive damages, and attorney's fees and costs;**
- 5. For imposition of a constructive trust on Respondents who received assets belonging to or attributable to Jesse C. Slayton, the Jesse C. Slayton and Martha Jane Slayton Revocable Living Trust and/or the Slayton Family Trust;**
- 6. For attorney's fees and costs incurred in bringing this action; and**
- 7. For such other and further relief as the court may deem proper.**

Knudson, David N. (for Beneficiaries, Cynthia F. Hill and Lewis C. Slayton)

Pimentel, Paul (for Petitioner/ Trustee, Debbie Slayton)

First and Final Account and Report of Trustee and Petition for Its Settlement

			DEBBIE SLAYTON , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
			Account period: 5/3/05 – 12/31/10	Continued from 6/3/13. Minute order states Mr. Knudson requests a continuance to complete discovery. Matter set for status hearing (see page 6C). Counsel is directed to submit a status report. As of 7/10/13 the following issues remain:
Cont. from 040213, 060313			Accounting - \$695,755.03 Beginning POH- \$437,253.98 Ending POH - \$ 13,959.48	
	Aff.Sub.Wit.		Petitioner prays for an Order:	
✓	Verified		1. The first and final account and report be approved, allowed and settled;	1. Accounting includes both the Jesse C. Slayton and Martha Jane Slayton Revocable Living Trust dated June 1, 2005 and the Slayton Family Trust. The Jesse C. Slayton and Martha Jane Slayton Revocable Living Trust is not before the court and therefore the court cannot make orders with regard to said trust. A separate accounting (in a separate case file) will need to be filed for the Jesse C. Slayton and Martha Jane Slayton Revocable Trust. Need amended accounting to include only the Slayton Family Grantor Trust.
	Inventory		2. All acts and transactions of the Successor Trustee during the period covered by this account and report be ratified and confirmed;	
	PTC		3. Such further orders be made as the Court considers proper.	2. Need Notice of Hearing
	Not.Cred.			3. Need proof of service of the Notice of Hearing on: a. Cynthia F. Hill b. Lewis C. Slayton c. Shirley Alexander d. David Knudson
	Notice of Hrg	X		
	Aff.Mail	X		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			Please see additional page
	Status Rpt			Reviewed by: KT
	UCCJEA			Reviewed on: 7/10/13
	Citation			Updates:
	FTB Notice			Recommendation:
				File 6B - Slayton

Additional NEEDS/PROBLEMS/COMMENTS:

4. Signatures on the accounting including the verification are all copies and not original.
5. Schedule E – Distribution to Beneficiaries indicates \$195,000 was distributed to beneficiaries but does not state the names of the beneficiaries and the amount distributed to each.
6. Exhibit A – Persons Entitled to Notice is blank.
7. Petition does not request distribution of the remaining assets to the beneficiaries.
8. Order does not comply with Local Rule 7.6.1C – Orders distributing property and orders settling accounts shall contain a statement as to the balance of the estate on hand, specifically noting the amount of cash in the balance.

Status Hearing

		<p>CYNTHIA F. HILL and LEWIS C. SLAYTON filed a Petition to Compel Trustee to Account; for Accounting by Attorney in Fact; for Further Accounting; for Elder Fiduciary Abuse; for Constructive Trust, and for Damages. Please see page 6A.</p> <p>DEBBIE SLAYTON, Trustee, then filed the First and Final Account and Report of Trustee and Petition for Its Settlement. Please see page 6B.</p> <p>Minute order dated 6/3/2013 set this status hearing and instructed counsel to submit a status report.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
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Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 7/10/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6C – Slayton</p>	

6C

7A Eugena Maru Bedoni (CONS/PE)
Atty Sanoian, Joanne (for Petitioner/daughter Marianne Bourgeois)
Atty Walters, Jennifer (Court appointed for Conservatee)
Atty Magness, Marcus (for Objector Bernadette Planting)

Case No. 13CEPR00039

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 94 years		<u>There is not temporary. Temporary was terminated on 4/19/2013</u>		NEEDS/PROBLEMS/COMMENTS: Continued from 4/19/2013. Minute order states the temporary is not extended. Court Investigator Advised Rights on 2/11/13. Voting Rights Affected Need Minute Order. Note: All accounts held at CitiBank in the name of Eugena Bedoni, individually or as Trustee of the Bedoni 2001 Living Trust were ordered into a blocked accounts pending the outcome of the temporary hearing.
		MARIANNE BOURGEOIS , daughter, is petitioner and requests appointment as conservator of the person and estate with bond set at \$311,000.00.		
Cont. from 022813, 040413, 041913		<u>Estimated value of the estate:</u>		
<input type="checkbox"/>	Aff.Sub.Wit.	Personal property	- \$265,000.00	
<input checked="" type="checkbox"/>	Verified	Public Assistance	- \$ 16,860.00	
<input type="checkbox"/>	Inventory	Voting Rights Affected		
<input type="checkbox"/>	PTC	Petitioner states the conservatee lives with one of her daughters, Bernadette Planting and is not ambulatory. Conservatee has a living trust with Petitioner and Bernadette as Successor Co-Trustees. The Trust does not authorize the co-trustees to act individually. Conservatee's Durable Power of Attorney signed in May 2001, named Petitioner and Bernadette as Successor Co-Agents. Petitioner was just informed that sometime in January 2010 Conservatee signed another Durable Power of Attorney making Bernadette her agent. Petitioner alleges Bernadette began using the Conservatee's funds to make improvements on her home. The manager at Citibank became alarmed after \$20,000 was transferred from the Conservatee's account to Bernadette's personal checking account. After he did some investigating he discovered that over \$360,000 had come out of the account in a very short period of time. The Citibank manager contacted APS. APS learned that Bernadette has been using the Power of Attorney to access the conservatee's funds. Bernadette has also used approximately \$131,510 to purchase a home for her son, Steven Planting. After their investigation was completed APS contacted the Fresno Police Dept. because they believed the Conservatee was a victim of financial elder abuse. Petitioner believes that the conservatee is unable to manage her financial resources, unable to resist undue influence, is the victim of financial elder abuse and needs to be protected from Bernadette Planting.		
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail	W/		
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Reviewed by: KT				
Reviewed on: 7/10/13				
Updates:				
Recommendation:				
File 7A - Bedoni				

7A

Dept. 303, 9:00 a.m. Friday, July 12, 2013

Court Investigator Jennifer Daniel's Report filed on 2/19/13.

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13.

Objector alleges on or about 12/30/2010 Mrs. Bedoni executed the First Amendment to the Bedoni Family Trust Agreement (Trust), the First Codicil to the Will of Eugena Bedoni (Codicil), Durable Power of Attorney (DPA) and an Advanced Healthcare Directive and Durable Power of Attorney for Health Care (AHCD). The Trust amendment removes Petitioner as a co-successor Trustee of the Trust and names Objector as the sole successor Trustee of the Trust. The Codicil similarly names Objector as the sole executor of Mrs. Bedoni's Will as does the DPA. Neither document names Petitioner, or anyone else, as successor or agent. The AHCD names Objector as the initial agent and Stephen Planting as the alternate. Again, the Petitioner is not named in any of these documents. Presumably, if Mrs. Bedoni would have wanted Petitioner to act in any capacity she would have named her. Rather, Mrs. Bedoni removed Petitioner as an agent/trustee/executor in her estate plan.

Since moving to Fresno, Objector, with the help of her son Stephen, has cared for Mrs. Bedoni making her life full of love and activity. Since Mrs. Bedoni moved to Fresno, she has only been visited once by any of her other children – the Petitioner in February 2012.

Prior to moving Fresno, it was common knowledge in the family that Objector's home would need improvements suitable for Mrs. Bedoni. The bathrooms needed improvements to be accessible and safe for Mrs. Bedoni. The doorways needed widening to accommodate Mrs. Bedoni's wheelchair. Windows needed to be replaced (the windows were in such a state that the house was not insulated and subject to extreme temperature depending on the season). The driveway needed to be widened so that there was room for Mrs. Bedoni's chair and the car. In addition, other improvements were made at Mrs. Bedoni's direction.

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13

(cont.): For example, in order to allow Mrs. Bedoni participate in gardening, Objector and Stephen have begun constructing raised beds so that Mrs. Bedoni can garden and be outside. Mrs. Bedoni authorized Objector to spend the trust assets for any and all improvements on Objector's house. All home improvements have been or are near completion. No trust assets will be used on any further improvements.

On or about March of 2012, Mrs. Bedoni loaned Stephen \$131,500.00 to purchase a home for Stephen. The home was in the same neighborhood as the Objector's and was being sold on a short sale. Objector was prepared to take equity out of her home to purchase the home for Stephen, but Mrs. Bedoni insisted that she loan them the funds. As a result the funds were transferred out of the Trust Account. The Trust authorizes the Trustee to lend trust assets.

In December 2010, Objector's husband and Stephen's father, Paul Planting, was killed by a car while walking through a crosswalk. Objector and Stephen commenced a wrongful death action. By the time the loan was made it was clear that Stephen and Objector were going to receive a settlement in approximately the same amount as the sale price. It was always understood that the proceeds of the settlement would be used to repay Mrs. Bedoni. Objector has been informed by the attorney for the settlement that the settlement funds should be disbursed on or about March 7, 2013. Objector and Stephen will repay the loan with interest. Therefore the transaction will result in a net benefit to the Trust.

Please see additional page

Objections to Appointment of Conservator of the Person. Pursuant to Probate Code §1801(a), the Court must determine, by clear and convincing evidence, that Mrs. Bedoni is unable to provide properly for her personal needs for physical health, food, clothing and shelter before a conservatorship of the person may be established. Here, the appointment of a conservatorship of the person is unnecessary. Objector is providing Ms. Bedoni with excellent care. Mrs. Bedoni in her own words, "is perfectly happy" in Objector's home. There is no evidence to suggest that Mrs. Bedoni should be moved or that she is not being appropriately cared for. Mrs. Bedoni nominates Objector as her agent under AHCD and Stephen Planting as the successor agent. The same individuals are nominated as conservator of her person in the AHCD. As such, the Petition for Appointment of Conservator of the Person should be denied.

Objections to Appointment of Conservator of the Estate. Pursuant to Probate Code §1801(b), the court must determine by clear and convincing evidence, that Mrs. Bedoni is unable to manage her own financial resources or resist fraud or undue influence before a conservatorship of her estate may be established. Here there is no evidence that Mrs. Bedoni lacks testamentary capacity and is unable to resist fraud and undue influence. Quite to the contrary, the Probate Investigator's report supports a finding that Mrs. Bedoni has testamentary capacity.

A competent testator may dispose of his or her property as he or she wishes, without regard to the desires of prospective beneficiaries or the view of anyone else. *Estate of Marham (1941) 46 Cal.App.2d 307*. A person has testamentary capacity if she: (1) understands the nature of the testamentary act, (2) understands and recollects the nature and situation of her property, and (3) remembers and understands her relations to living descendants, spouse, parents, and others whose interests are affected by the testamentary act. (Probate Code c216100(a))

Mrs. Bedoni understands the nature of her dispositive acts. According to the Court Investigator, Mrs. Bedoni can recollect and state that she directed Ms. Bedoni [sic] to use her assets for the purposes that are at issue here. Mrs. Bedoni recollects and understands the nature and situation of her property. Mrs. Bedoni knows where she has accounts (Citibank, Wells Fargo, and a credit card) (Investigator's Report 1/23/12; Investigator's Report 2/19/13).

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13 (cont.):

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13 (cont.): Mrs. Bedoni understands the relations of her living family. Mrs. Bedoni knows she lent money to her grandson and she stated that home improvements were done at the house with her approval. Mrs. Bedoni is also able to decide when she wants to take Objector and Stephen out for dinner.

Objection. Not Least Restrictive Alternative. Finally, even if the Court could make the required findings under Probate Code 1801, no conservatorship of the person or estate shall be granted unless the court makes an express finding that granting of the conservatorship is the least restrictive alternative needed for protection of Mrs. Bedoni. Mrs. Bedoni has a valid durable power of attorney for property management and an advanced health care directive (which includes a durable power of attorney for health care) pursuant to which she has planned for her current and future needs. Hence, the facts will not support a finding that a conservatorship is the least restrictive alternative needed to protect Mrs. Bedoni.

Please see additional page

Objection to Court Blocking Trust Account – No Jurisdiction. Prior to the hearing on the temporary conservatorship this Court ordered Mrs. Bedoni's trust account at Citibank blocked. Such order was extended at the hearing on the temporary conservatorship to the hearing on the instant petition. This order must not be extended. The court has no jurisdiction over the Trust Account and it was improper to order the account blocked in the first place.

Declaration of Court Appointed Counsel Jennifer L. Walters filed on 2/26/13. Attorney Walters states that it is her opinion that the Conservatorship of the person be denied as Mrs. Bedoni is very happy and content living in her daughter Bernadette's home. Attorney Walters feels that the conservatorship of the estate should be denied as well. She states that although there have been some issues regarding expenditures in the past relating to Mrs. Bedoni's trust, those issues are not really before the court as they are matters of a trust action and should be dealt with accordingly. Attorney Walters states she did take those actions into account when looking at the global issue of Mrs. Bedoni's care. It would appear that Bernadette has used funds to remodel her home, purchase a home for her son, etc., with Mrs. Bedoni's funds and Attorney Walters states she did address this with Mrs. Bedoni and Bernadette. It appears that the Trust will be paid back for the funds to purchase the home, and in regards to the improvements to the home, they appear reasonable. Some improvements include a ramp to the front door, expanding some openings and fixing bathrooms. The home Mrs. Bedoni lives in is not one of grandeur, but an older home that needed improvements to allow for Mrs. Bedoni to reside there. In addition, Mrs. Bedoni is pleased with the home and its improvements.

Additionally, Attorney Walters does not agree with appointing the Public Guardian in this case. This would be an additional cost and potential disruption to the Conservatee. It appears unnecessary to get the Public Guardian involved at this time.

Age: 94 years		<p>MARIANNE BOURGEOIS, daughter, petitioned the court requesting appointment as conservator of the person and estate of her mother, Eugena Bedoni.</p> <p>Objections were filed by the proposed conservatee's other daughter, BERNADETTE PLANTING alleging a conservatorship was not necessary.</p> <p>Court Appointed Counsel JENNIFER L. WALTERS reported it was her opinion that a conservatorship of the person and estate was not necessary.</p> <p>A Settlement Conference was held on 4/4/13. Minute order from the Settlement Conference states the Court declines to participate in the Settlement Agreement due to Petitioner Marianne Bourgeois indicating twice that she was agreeing in duress.</p> <p>Status Conference Statement filed on 4/18/2013 states at settlement was not reached at the Settlement Conference held on 4/4/13. At the close of the Settlement Conference the Court read the tentative terms of the agreement that had been discussed by the parties. The parties have reached a settlement. Pursuant to the terms of the Settlement agreement, certain actions must be taken in order for the parties to fully perform their obligations thereunder. A status hearing is to be set 60 days from today's date to confirm that all actions have been performed. Provided all parties have performed their obligations, Ms. Bourgeois will withdraw her underlying petition with prejudice.</p> <p style="text-align: center;">Please see additional page</p>	NEEDS/PROBLEMS/COMMENTS:
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Aff.Sub.Wit.			
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FTB Notice			
		Reviewed by: KT	
		Reviewed on: 7/10/13	
		Updates:	
		Recommendation:	
		File 7B - Bedoni	

Status Hearing Report filed by Marianne Bourgeois on 7/8/2013 states on 4/19/2013 a settlement was reached. A final settlement agreement was signed by all three parties and their respective counsel. Pursuant to the terms of the Settlement Agreement, certain actions were to be taken regarding the Louis A. Bedoni and Eugena M. Bedoni 2001 Declaration of Trust ("Trust").

1. Bedoni was to amend the Trust to place Tom Passanisi into position as Co-Trustee. Petitioner has received no indication that a Trust Amendment has been executed by Bedoni adding Passanisi as Co-Trustee.
2. The Trust was to be amended to provide that all expenses in excess of \$2,500 be subject to prior written approval of Bedoni's attorney Walters. Petitioner has received no indication that a Trust amendment has been executed including this language.
3. Planting and Bedoni were to retain a bookkeeper to prepare and maintain an accounting of all trust assets held for the benefit of Bedoni. Petitioner has received no indication that this action has been taken.
4. Planting, Passanisi and Bedoni were to provide for the deposit of Bedoni's Social Security check into and account managed by the three Co-Trustees. Petitioner has received no indication that this action has been taken.
5. The Chase Visa credit card used for Bedoni's expenses was to be paid off and closed. Petitioner has received no indication that the credit card has been paid off.
6. Upon the execution of the Settlement Agreement, and the termination of all orders in effect regarding blocked accounts, Bedoni was to pay Sanoian the sum of \$4,500.00 as partial payment of attorney fees incurred in bringing the action. The Settlement Agreement has been executed and all orders regarding the blocked account have been terminated, yet no funds have been paid to Sanoian.

It appears to Petitioner that a proceeding to enforce the terms of the Settlement Agreement is necessary. If Petitioner brings such a motion, a request for attorney fees and costs in initiating and prosecuting such a proceeding shall be made.

Status Hearing Statement filed by Bernadette Planting on 7/9/2013 states on 4/19/2013, a Status Conference was held in this Court. The parties, through their counsel, appeared at the hearing. While the Settlement Agreement had been executed, a number of tasks still needed to be accomplished. A Status Hearing was scheduled for 7/12/13 to confirm whether the necessary tasks had been completed. To date all terms of the Settlement Agreement have been completed with the exception of the trust paying Bourgeois' attorney's fees in the amount of \$4,500.00, and Bourgeois' withdrawal of the Petition with prejudice.

Pursuant to the terms of the Settlement Agreement:

1. Bedoni's counsel prepared an amendment whereby Passanisi and Planting were appointed as Successor Co-Trustees of the Trust. Passanisi has accepted the office of Co-Trustee.
2. Planting retained a Bookkeeper to prepare and maintain an accounting of all trust assets, receipts and disbursements. Regular monthly accountings will be provided to Ms. Walters.
3. Planting has been in contact with Social Security to arrange for the Social Security checks to be deposited into an account managed by the Trustees.
4. The Chase Visa credit card has been paid off in full and the account closed.

Please see additional page

Status Hearing Statement filed by Bernadette Planting on 7/9/2013 (cont.):

The sole remaining task for Planting to perform is paying Ms. Sanoian for the attorney's fees incurred by Bourgeois. At the settlement conference, attorney's fees were discussed on the grounds that Bourgeois had been acting with good intent and in Bedoni's best interest in bringing the Petition.

Planting accessed the Wells Fargo account, which had been titled jointly for convenience with Bedoni, Bedoni's deceased husband, Lou Bedoni, and Bourgeois. Upon accessing the account, Planting discovered Bourgeois had been using Bedoni's Social Security payments for her own personal expenses. Since December 2010, at least \$8,100 of Bedoni's Social Security funds have been utilized by Bourgeois for her own personal use.

The bulk of the charges appear to be for groceries, dining, gas, general shopping expenses, and a cash withdrawal at a foreign currency exchange during a European Vacation – none of which were used for Bedoni. Of special concern are the withdrawals of \$480.00 on 3/1/2013 and \$525.00 on 3/29/2013, which both occurred while Bourgeois was acting as the temporary conservator of Bedoni's estate.

At no time did Bedoni consent to her Social Security funds being used for any purpose other than paying insurance payments and her Chase Visa Card balance. Bourgeois, without her mother's consent or knowledge, has already taken far more than enough money to cover the \$4,500.00 to be paid to her attorney in this matter.

Planting requests the Court exercise its equitable power and strike Paragraph 18 from the Settlement Agreement and require Bourgeois to bear her own attorney fees. If the Court does not make such an order, Planting will pay Ms. Sanoian's fees forthwith thereby satisfying all existing terms of the Settlement Agreement.

In either case, the remaining task to be accomplished after the Status Hearing will be for Bourgeois to withdraw her Petition with prejudice.

Probate Status Hearing Re: Filing Inventory & Appraisal

DOD:			<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p>Final I&A was filed 4-17-13.</p>
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<p>Reviewed by: skc</p> <p>Reviewed on: 7-9-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8 – Sawl</p>

DOD: 10-12-12		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
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Notice of Hrg		
Aff.Mail		
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Duties/Supp		
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Video Receipt		
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9202		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

EDDIE J. ROGERS , son, was appointed as Administrator with Will Annexed with Limited IAEA and bond of \$55,000.00 on 4-4-13. Bond has not yet been filed, and Letters have not yet issued. At hearing on 4-4-13, the Court set this status hearing for proof of bond.
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NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Petition to Eliminate Bond and Allow Deposit of Funds in Blocked Account is set for hearing on 8-12-13.
Reviewed by: skc
Reviewed on: 7-9-13
Updates:
Recommendation:
File 9 – Rogers

Atty Motsenbocker, Gary L. (for Dale Bolden – Daughter/Administrator)

Atty Johnson, Mark D. (for The Ebenezer Community Church of God in Christ)

Status Hearing Re: Settlement Agreement

DOD: 10-5-99

Cont. from 042613

Aff.Sub.Wit.

Verified

Inventory

PTC

Not.Cred.

Notice of
Hrg

Aff.Mail

Aff.Pub.

Sp.Ntc.

Pers.Serv.

Conf.
Screen

Letters

Duties/Supp

Objections

Video
Receipt

CI Report

9202

Order

Aff. Posting

Status Rpt

UCCJEA

Citation

FTB Notice

DALE BOLDEN, Administrator with Full IAEA, filed a Petition Requesting Partition of Real Property and Reimbursement of Costs Advanced and Past Due Rents and for Attorney's Fees on 05/23/12.

Minute Order from Status Conference on 10/26/12 states:

Parties reach a settlement agreement as fully set forth by Mr. Johnson. Upon inquiry by the Court, parties individually agree to the terms and conditions of the settlement agreement. Mr. Motsenbocker is directed to prepare the agreement. Matter set for Status Hearing on 04/26/13. If all necessary documents are filed by 04/26/13, no appearance will be necessary.

Status Report Re Estate Administration

filed 04/22/13 states: In October 2012, the Ebenezer Church of God in Christ (the "Church") entered into an agreement with the Administrator of the decedent's estate to settle their dispute regarding ownership interests in the church premises. The Church agreed to pay the Administrator the sum of \$30,000.00 in monthly installments on the first of each month beginning December 2012 until the settlement was paid in full. The Church as thus far paid \$25,000.00 and the final payment is expected on 05/01/13. The Administrator stands ready, upon final payment, to convey the interest of the estate in the church premises to the Church upon the Church's instruction as to the property party name as the grantee on a grant deed. The Church's attorney has yet to provide a copy of the order that he prepared memorializing the settlement. Administrator's attorney prepared and forwarded a settlement agreement to the Church's attorney for approval and required signatures; that document has not been signed by the Church or returned to the Administrator. As soon as the documents are submitted as promised and the final payment is made, the Administrator stands ready to perform as agreed and she is prepared to submit a final account and request distribution of this estate.

NEEDS/PROBLEMS/COMMENTS:**CONTINUED FROM 04/26/13**

Minute Order from 04/26/13 states: Mr. Johnson informs the Court that five payments of \$5,000.00 have been made and only one remains.

1. Need current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.

Reviewed by: JF**Reviewed on:** 07/10/13**Updates:****Recommendation:****File 10 – Moultrie**

Probate Status Hearing Re: Filing First Account and Inventory & Appraisal

DOD: 4-19-04	STEPHEN RONALD CLOUD was appointed Executor with full IAEA without bond on 8-29-06 and Letters Issued 8-30-06.	NEEDS/PROBLEMS/COMMENTS:
Cont from 121312, 011413, 021113, 030413, 060713	Inventory and appraisal was due 12-29-06.	Note: The Order Approving Sixth and Final Account and Report of Conservator of the Person and Estate of Conservatee in 0458379 was filed 3-6-13.
Aff.Sub.Wit.	First account or petition for final distribution was due 8-30-07.	Note: Now that the conservatorship estate has concluded, it appears this estate matter can go forward.
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	Status Report filed 11-6-12 by attorney Perkins states this estate is dependent on the receipt of assets from the conservatorship estate. The Conservator has refiled his Sixth and Final Account that is set for hearing on 12-13-12. Immediately upon settling, Executor will prepare and file an Inventory and Petition for Final Distribution to close the decedent's estate.	1. Need Inventory and Appraisal
Aff.Mail		2. Need First Account or Petition for Final Distribution or written status report pursuant to Local Rule.
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		Status Report filed 6-6-13 (not verified by Executor) states I&A was submitted to the Probate Referee on 6-5-13, and will be filed with the final petition upon return. Executor believes 2 weeks should be sufficient to have these items filed.
Letters		
Duties/Supp	Declaration of Stephen Ronald Cloud in Response to Order to Show Cause filed 11-6-12 states he was not able to file an inventory or otherwise proceed because the conservatorship assets have not yet been delivered to the estate. Executor hopes the Court will realize that he has done all he could to act as Executor and hopes that he will not be sanctioned. Executor sincerely apologizes to the Court and its staff for the unusual amount of the Court's time that has been taken while he has tried to conclude the Conservatorship and this matter.	Note: As of 7-9-13, no I&A has been filed.
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: skc
Status Rpt		Reviewed on: 7-9-13
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice	Status Report filed 6-6-13 (not verified by Executor) states I&A was submitted to the Probate Referee on 6-5-13, and will be filed with the final petition upon return. Executor believes 2 weeks should be sufficient to have these items filed.	File 11 - Cloud

12

Atty Turner, Patrick A. (for Nancy Varela – Executor)

Atty Tillman, Lisa (Deputy Attorney General – for DHS Estate Recovery Section)

Probate Status Hearing Re: Failure to File First Account or Petition for Final
Distribution

DOD: 3-16-08		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR</u></p> <p>First and Final Account filed 6-27-13 is set for hearing 8-7-13.</p>
Cont. from 121412, 020813, 051013		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 7-9-13
		Updates:
		Recommendation:
		File 13 - Betts

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq.)

DOD: 8-29-08		<p>DIANE PICKERING, family friend, was appointed Executor with Full IAEA without bond and Letters issued on 1-13-09.</p> <p>On 1-26-12, the Court set status hearing for failure to file a First Account or Petition for Final Distribution.</p> <p>Minute Order 3-14-12: Counsel advises the Court that there is an insurance issue that he is trying to resolve.</p> <p>Minute Order 5-2-12: Matter continued to 6-20-12. Counsel is directed to file the required items by 6-20-12.</p> <p>Minute Order 6-20-12: Matter set for status on 9-21-12.</p> <p>Minute Order 9-21-12: No appearance. The Court sets the matter for an Order to Show Cause regarding failure to appear and imposition of sanctions in the amount of \$450.00. Sheldon Feigel is ordered to be personally present on 9-28-12.</p> <p>Minute Order 9-28-12: Counsel advises the Court that he is waiting on the assets from the estate. The Order to Show Cause is dismissed.</p> <p>Minute Order 3-15-13: Counsel informs the Court that they may be administering this matter outside of Probate. Counsel requests a two month continuance.</p> <p>Minute Order 5-17-13: No appearance. The Court sets the matter for an Order to Show Cause on 7-12-13 regarding Sheldon Feigel's failure to appear and imposition of sanctions in the amount of \$500.00. The Court orders Sheldon Feigel and Diane Pickering to be personally present on 7-12-13. The Court indicates for the minute order that it will be addressing the issue of removing Diane Pickering as Executor at the next hearing.</p> <p>Pursuant to Ex Parte Order on 6-28-13, the status hearing is reset to 8-9-13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR</u></p> <p>This hearing was reset to 8-9-13 pursuant to Order 6-28-13.</p> <p><u>Note: Executor was appointed in January 2009 (over four years ago). This is the 8th status hearing regarding failure to file I&A and account.</u></p> <p>The original petition indicated an estimated estate value of \$130,000.00 in personal property (nature unknown, as I&A has not been filed).</p> <p>Decedent's will devises the entire estate to The Mildred Pearl Rancilio Living Trust.</p> <p><u>As of 5-13-13, nothing further has been filed by the Executor.</u></p> <p><u>The following issues remain:</u></p> <ol style="list-style-type: none"> 1. Need Inventory and Appraisal. 2. Need First Account Current or Petition for Final Distribution pursuant to Probate Code §12200. 3. A Request for Special Notice was filed 4-29-13 by Mary Catherine Cooper, beneficiary of the trust. Any further hearings must be properly noticed by the Executor per Probate Code §1252.
Cont. from 031412, 050212, 062012, 092112, 092812, 031513, 051713			
Aff.Sub.Wit.			
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Objections			
Video Receipt			
CI Report			
9202 Order			
Aff. Posting			
Status Rpt	X		
UCCJEA			
Citation			
FTB Notice			

Order to Show Cause Re: Failure to Appear; Imposition of Sanctions in the Amount of \$500.00

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p>This hearing was reset to 8-9-13 pursuant to Order 6-28-13.</p>
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<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		<p>Reviewed by: skc</p> <p>Reviewed on: 7-9-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 14B – Rancilio</p>

14B

Status Hearing Re: Settlement Agreement

		<p>JAMES LOUIS ROBERTS, Executor, filed a petition for determination of the beneficiaries under the will and for final distribution .</p> <p>Executor requested the court find that West Park Baptist Church was the beneficiary of the remaining estate consisting of \$119,359.98.</p> <p>ANNA B. HINLEY and FRANCES ALBERS, Trustees of the Chester and Lorene Living Trust dated 4/12/07 filed objections requesting distribution of 50% interest in the net Estate be made to the Chester and Lorene Living Trust dated 4/12/2007, and that the Estate be ordered to reimburse Gary Bagdasarian the sum of \$18,095.71 as compensation for services on behalf of the Objectors.</p> <p>Minute Order 1-2-13: Greg Roberts appearing via conference call. Ms. Lind objects to the payment of fees to Mr. Bagdasarian's client. The Court sets a Settlement Conference on 3/4/13. The Court directs counsel to submit their Settlement Conference Statements on week before the hearing. Matter set for Court Trial on 3/15/13 with a one day estimate.</p> <p>Minute Order 3-4-13: Also present in the courtroom are Donna Wyatt and Gail Brown. Frances Albers is appearing via conference call. Parties reach a settlement agreement as fully stated on the record by Mr. Roberts. Parties agree that the trust will waive any and all claims as to the Probate estate. In addition, parties agree to waive further accountings of the trust and estate and all objections are withdrawn. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement agreement. Mr. Roberts is directed to prepare the settlement agreement. The settlement agreement and order regarding the withdrawals from the blocked account(s) to be submitted on an ex parte basis. Set on 3/29/13 at 9am in Dept 303 for Status Re: Settlement Agreement</p> <p>Order signed 3-15-13 provides at #8: "The beneficiary of the amount of \$119,359.98 will be covered in the Settlement Agreement."</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 3-29-13: Mr. Bagdasarian informs the Court that they are waiting on the final document to be executed.</p> <p>Minute Order 5-10-13: Mr. Roberts advises the Court that he has all the changes to the agreement and all he needs to do is put it together. Mr. Roberts further advises that he may have the final version out to everyone today.</p> <p>Note: Status Report filed 6-5-13 states no response has been received from the other counsel. Proposed agreement is attached, but not signed.</p> <p>Minute Order 6-7-13: Mr. Roberts informs the Court that the agreement is ready to be signed. Continued to 7-12-13.</p> <p>As of 7-9-13, nothing further has been filed.</p> <p>1. Need Settlement Agreement and Order for Distribution according to Settlement Agreement.</p>
Cont. from 032913, 051013, 060713			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
✓ Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Status Report filed by Gary Bagdasarian, attorney for beneficiaries Anna B. Hinley and Frances Albers, states Attorney Gregory J. Roberts was asked to prepare and has provided a draft Settlement Agreement. Attorney Bagdasarian has provided proposed changes. A final Settlement Agreement has not been received as of 5-8-13. Upon receipt, the attorney will review and provide any final requests for modifications and approval.

Status Report filed by Ruth P. Lind, attorney for Executor James Louis Roberts, states the proposed agreement did not accurately reflect the agreement of the parties. Stefanie Krause prepared a form of suggested revisions and emailed them to Mr. Roberts and Mr. Bagdasarian on 3-25-13. On 3-30-13, Mr. Roberts responded that Mr. Bagdasarian's changes were not included in her revision, but that if it was sent in Word, he would incorporate all changes into one new document. The document was sent as requested to Mr. Roberts on 4-1-13.

Mr. Roberts and his clients did not attend the status hearing on 3-29-13 and the Court continued the matter to 5-10-13. Stefanie Krause followed up with an email to Mr. Roberts on 5-4-13; however, to date, there has been no communication from Mr. Roberts.

Status Conference Declaration filed 6-5-13 by Attorney Gregory J. Roberts for Trustee Gail Brown states on 5-24-13, he emailed to counsel Ruth Lind, Stefanie Krause and Gary Bagdasarian what he believed to be a final settlement (attached). He has not heard anything from counsel regarding additional changes or whether or not the agreement as written is acceptable. He emailed again on 6-5-13.

Attorney Roberts believes the matter has settled and the attached agreement correctly reflects the agreement of all parties with all of the changes made by counsel.

Note: The settlement agreement attached, which provides for a distribution of \$69,000.00 to the 2007 Trust, with the assets remaining to be used for costs and fees of administration, with the remainder to West Park, is not signed.

Probate Status Hearing Re: Filing of the First Account or Petition for Final Distribution

DOD: 09/26/08	CHRIS JOHNSON , son, was appointed Executor and Letters were issued on 10/21/10.	NEEDS/PROBLEMS/COMMENTS: CONTINUED FROM 05/10/13 Minute order from 05/10/13 states: The Court removes Chris Johnson as executor and appoints the Public Administrator. Matter is continued to 07/12/13.
Cont. from 121511, 020912, 052412, 071212, 080912, 100512, 111612, 011113, 022213, 041213, 051013	Minute Order from hearing on 10/21/10 set this matter for status for filing the First Account or Petition for Final Distribution on 12/15/11.	
	An Inventory & Appraisal was filed 01/26/11.	
Aff.Sub.Wit.		
Verified	Letters of Administration were issued to the Public Administrator on 05/24/13.	
Inventory		
PTC		
Not.Cred.	Status Report Regarding Final Report filed 07/05/13 states: Deputy Public Administrator Noe Jimenez met with the former Administrator, Mr. Johnson. Mr. Johnson was ordered not to sell any property without court approval; however, he stated that he already sold the Helm Street property. Mr. Johnson reported that both houses had deeds of trust and that he sold the one house so that there would be no deeds of trust on the house. Mr. Johnson reported that he still has the 2004 Mercedes and 1996 Jeep. He stated that he does not want to sell the Mercedes because he uses it for work. In order to determine the status of the second real property and sell one or both vehicles and then prepare the final account, the Public Administrator requests the next status hearing be set at least 4 months out.	
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
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Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 07/10/13
		Updates:
		Recommendation:
		File 16 – Johnson

Probate Status Hearing Re: Increase of Bond

Age: 19	IAN KINSEY , brother, was appointed Conservator of the Estate with bond set at \$15,000.00 on 01/29/13.	NEEDS/PROBLEMS/COMMENTS:										
		<u>CONTINUED FROM 05/24/13</u> Minute order from 05/24/13 states: Counsel requests a continuance.										
Cont. from 052413	Bond in the amount of \$15,000.00 was filed on 02/06/13.	2. Need current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.										
<input type="checkbox"/> Aff.Sub.Wit.	Letters of Conservatorship were issued on 02/08/13.											
<input type="checkbox"/> Verified		<table border="1"> <tr><td>Reviewed by:</td><td>JF</td></tr> <tr><td>Reviewed on:</td><td>07/10/13</td></tr> <tr><td>Updates:</td><td></td></tr> <tr><td>Recommendation:</td><td></td></tr> <tr><td>File 17 – Kinsey</td><td></td></tr> </table>	Reviewed by:	JF	Reviewed on:	07/10/13	Updates:		Recommendation:		File 17 – Kinsey	
Reviewed by:	JF											
Reviewed on:	07/10/13											
Updates:												
Recommendation:												
File 17 – Kinsey												
<input checked="" type="checkbox"/> Inventory	Inventory & Appraisal filed 05/02/13 – shows cash assets of \$250,000.00 from settlement.											
<input type="checkbox"/> PTC												
<input type="checkbox"/> Not.Cred.												
<input type="checkbox"/> Notice of Hrg	Notice of Status Hearing filed 05/06/13 set this matter for status regarding the sufficiency of the bond (\$15,000.00) in light of the Inventory & Appraisal showing cash assets in the amount of \$250,000.00.											
<input type="checkbox"/> Aff.Mail												
<input type="checkbox"/> Aff.Pub.												
<input type="checkbox"/> Sp.Ntc.												
<input type="checkbox"/> Pers.Serv.												
<input type="checkbox"/> Conf. Screen												
<input type="checkbox"/> Letters	Clerk's Certificate of Mailing indicates that the Notice of Status Hearing was mailed to attorney Paul Pimentel on 05/06/13.											
<input type="checkbox"/> Duties/Supp												
<input type="checkbox"/> Objections												
<input type="checkbox"/> Video Receipt												
<input type="checkbox"/> CI Report												
<input type="checkbox"/> 9202												
<input type="checkbox"/> Order												
<input type="checkbox"/> Aff. Posting												
<input type="checkbox"/> Status Rpt												
<input type="checkbox"/> UCCJEA												
<input type="checkbox"/> Citation												
<input type="checkbox"/> FTB Notice												

Age:			NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p>I&A Partial No. 1 was filed 5-1-13. Final I&A was filed 5-24-13.</p>
DOD:			
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc Reviewed on: 7-9-13 Updates: Recommendation: File 18 – Karas

DOD: 18-12-12		KEVIN HUDGINS and DANIELLE DUTRA, Son and Daughter, were appointed Co-Executors with Full IAEA without bond on 2-7-13. At hearing on 2-7-13, the Court set this status hearing for the filing of the Inventory and Appraisal.	NEEDS/PROBLEMS/COMMENTS:
			1. Need Inventory and Appraisal. Probate Code §8800(b).
			Note: The original petition estimated the value of the estate as follows: Personal property: \$1,000,000.00 Annual income: \$ 130,000.00 Real property \$ 383,000.00 Total: \$1,513,000.00
Aff.Sub.Wit.			Note: The Co-Executors are the sole heirs per the decedent's will; however, there has been a creditor's claim filed for \$76,595.32.
Verified			
Inventory			
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Notice of Hrg			
Aff.Mail			
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Objections			
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UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 7-9-13	
		Updates:	
		Recommendation:	
		File 19 – Hudgins	

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 12/21/2012		ROBERT SHAW, GAYDEN L. SCHORLING and DOUGLAS SCHORLING , first cousins, were appointed Co-Administrators with Limited Authority without bond on 02/7/2013. Letters issued on 02/08/2013.	NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> <u>INVENTORY AND APPRAISAL</u> <u>FILED ON 07/02/2013</u>
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Inventory			
PTC			
Not.Cred.			
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Aff.Pub.			
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Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: LV			
Reviewed on: 07/10/2013			
Updates:			
Recommendation:			
File 20 – Marden			

21 **Alexander Disclaimer Trust dated 12/17/98** Case No. 13CEPR00042
 Atty Sherwood, Peter A., of Sherwood Law Offices, Visalia (for Petitioner Linda Alexander Di Michillie, Successor Trustee)
 Atty Dowling, Michael P., sole practitioner (for Respondent Cara Alexander Gimlin, Successor Trustee)
 Atty Brown, Lael K., sole practitioner, of Vacaville (Respondent for Kenneth A. Alexander, Trust Beneficiary)

Status Hearing Re: Settlement Agreement

		<p>LINDA ALEXANDER DE MICHILLIE, daughter and Successor Trustee of the ALEXANDER DISCLAIMER TRUST, filed a <i>Petition for Order Confirming Ownership Interest in Real Property</i> on 1/11/2013.</p> <p>CARA A. ALEXANDER GIMLIN, daughter and Successor Trustee of the ALEXANDER FAMILY 1998 REVOCABLE TRUST as amended (aka SURVIVOR'S TRUST), filed a <i>Response to Petition for Order Confirming Ownership Interest in Real Property</i> on 3/6/2013.</p> <p>KENNETH ALEXANDER, son and alternate Successor Trustee of the ALEXANDER FAMILY 1998 REVOCABLE TRUST as amended [aka SURVIVOR'S TRUST], filed <i>Objections to Petition for Order Confirming Ownership Interest in Real Property</i> on 3/7/2013.</p> <p>Minute Order dated 6/20/2013 (settlement conference) states parties reach a resolution as set forth by the Court. The Court indicates for the minute order that this a settlement of all claims known and unknown. Parties agree that the court will retain jurisdiction over the matter. Mr. Sherwood is directed to prepare the agreement for circulation to the parties. This status hearing was set re: Settlement Agreement.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>	
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Aff.Sub.Wit.				
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UCCJEA				
Citation				
FTB Notice				
				<p>Reviewed by: KT</p> <p>Reviewed on: 7/10/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 21 – Alexander</p>

Age: 8		<p>PAO CHANG, father, was appointed Guardian of the Estate on 03/04/13. All proceeds were ordered to be deposited into a blocked account.</p> <p>Letters of Guardianship were issued on 03/05/13.</p> <p>Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account filed 05/24/2013 shows \$6,378.58 deposited into Educational Employees Credit Union on 03/18/2013.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory and Appraisal or need current written status report pursuant to Local Rule 7.5 which states all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the status report shall be served on all necessary parties.</p>	
Cont. from				
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PTC				
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Notice of Hrg				
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Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
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Status Rpt				
UCCJEA				
Citation				
FTB Notice				
				<p>Reviewed by: LV</p> <p>Reviewed on: 07/10/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 22 – Cha</p>

Status Hearing Re: Agreement

DOD:7-22-10	KAREN CILIA SANTI, surviving spouse, filed a petition to remove trustee, appoint successor trustee, and for attorneys' fees on 2-19-13.	NEEDS/PROBLEMS/COMMENTS: 1. Need signed settlement agreement and/or dismissal.
Aff.Sub.Wit.	ALBERT S. OWEN, JR., brother and successor trustee, filed his opposition to the petition on 3-28-13. At Settlement Conference on 5-21-13, the parties reached agreement and agreed to dismiss the petition. Mr. Mele was directed to prepare the agreement and various dates for draft and editing were set. The Court also set this status hearing regarding the agreement. If signed, no appearance necessary.	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	Status Report filed 7-3-13 by Attorney Mele states the parties are in the final stages of completing the settlement agreement and requests continuance to 8-2-13 to complete the final agreement and submit to the Court.	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Age: 13 years	<p>FRANCES GONZALES, paternal grandmother, was appointed guardian of the estate on 4/29/2013.</p> <p>Minute order from 4/29/13 states the Court grants the petition with special 2590 powers. Frances Gonzales is authorized to sign whatever documents are necessary to sell the property. The Court directs that the funds are to be placed into a blocked account. The Court sets the matter for status hearing.</p> <p>Status Report filed on 5/29/2013 Attorney O'Neill states that the issued Letters have not yet been received by her office to forward to her client. As such there will not be sufficient time to close escrow on the sale of the house and open a blocked account by the hearing. Therefore, Ms. O'Neill requests the review hearing be continued to 6/21/13, which is the first Friday after May 31st that she will be available.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR. Receipt filed on 6/19/2013. Escrow statement showing the minor's interest in the sales proceeds filed on 6/25/2013.</p>
Cont. from 053113, 062113		
Aff.Sub.Wit.		
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Duties/Supp		
Objections		
Video Receipt		
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Aff. Posting	Reviewed by: KT	
Status Rpt	Reviewed on: 7/10/2013	
UCCJEA	Updates:	
Citation	Recommendation:	
FTB Notice	File 24 – Gonzales	

DOD: 9-13-10		<p>EARL CUNNINGHAM, son, a resident of Carlsbad, NM, was appointed Administrator with Full IAEA without bond and Letters issued on 5-19-11.</p> <p>Inventory and Appraisals filed 12-5-12 and 1-22-13 indicate a total estate value of \$8,800.00, consisting of \$1,000.00 cash, plus a vehicle and a mobile home in Fresno.</p> <p>Creditor's Claims has been filed as follows:</p> <ul style="list-style-type: none"> \$9,845.58 filed by Phillips & Cohen Associates, LTD on behalf of RBS Citizens N.A. \$4,069.54, increases \$326 monthly, filed by Donald S. Cooley, DBA Sierra Mobile Park <p>Final account is due.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Administrator is a resident of Carlsbad, NM.</p> <p><u>Note:</u> Administrator was formerly represented by attorney Curtis Rindlisbacher; however, pursuant to Substitution filed 7-24-12, Administrator is now self-represented.</p> <ol style="list-style-type: none"> Need first account or petition for final distribution, or written status report. See Probate Code §§ 11640, 12200. The original petition originally estimated the value of the estate at \$60,000.00; however, per I&A, the value of the estate totaled \$8,800.00. The Court may require clarification regarding the large discrepancy between the estimated and actual values.
Aff.Sub.Wit.			
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Inventory			
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Aff.Pub.			
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Pers.Serv.			
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Duties/Supp			
Objections			
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Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 7-10-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 25 – Martin</p>	

DOD: 05/19/12	SUZIE ANTUNA , daughter, was appointed Administrator with Full IAEA and without bond on 08/22/12.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 05/10/13</u> Minute Order from 05/10/13 states: Ms. Antuna informs the Court that the document she filed does not represent the final appraisal as there is still a little more. As of 07/10/13, nothing further has been filed in this matter: 1. Need Supplemental Inventory & Appraisal and/or current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
Cont. from 051013	Letters of Administration were issued on 08/22/12.	
Aff.Sub.Wit.	Minute Order from status hearing regarding filing of the Inventory & Appraisal dated 01/25/13 set this matter for a Status Hearing and states: Ms. Antuna informs the Court that the Inventory & Appraisal was filed this morning, however, a \$2,000.00 check was not included. Matter set for a Status Hearing on 05/10/13. The Court directs Ms. Antuna to meet with Court Examiner Sarah Campbell forthwith.	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen	Inventory & Appraisl filed 01/25/13 - \$57,287.66	
Letters	Supplemental Inventory & Appraisal filed 04/25/13 - \$2,000.00	
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Reviewed by: JF
Reviewed on: 07/10/13
Updates:
Recommendation:
File 26 – Rocha

DOD: 04/11/09		<p>RUBY LOUISE MILLER, was appointed Administrator with full IAEA authority and without bond on 11/13/12. Letters issued on 03/08/13.</p> <p>Minute Order from 11/13/12 states: The Court finds that notice has been given to the other heirs. The Petitioner is directed to complete the supplemental Duties & Liabilities. The petition is approved. The status hearings remain as previously set.</p> <p>Minute Order dated 10/11/12 set this matter for status.</p> <p>Inventory & Appraisal filed 03/08/13 - \$1,050.00.</p>	NEEDS/PROBLEMS/COMMENTS:	
			<u>OFF CALENDAR</u>	
Cont. from 030813			<p><u>Note:</u> Status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 07/11/14 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			
<input type="checkbox"/>	Aff.Mail			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
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<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			
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<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
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<input type="checkbox"/>	FTB Notice			
		Reviewed by: JF		
		Reviewed on: 07/10/13		
		Updates:		
		Recommendation:		
		File 27 - Wimbley		

Probate Status Hearing Re: Supplemental Inventory & Appraisal

[illegible]

Atty Alabart, Javier A. (for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
 Atty Fanucchi, Edward L. (for Respondent Maria Luisa Sanchez, purported spouse)
 Atty Kruthers, Heather H. (for Petitioner Public Administrator, Administrator of the Estate)

**Probate Status Hearing: Court's Ruling on Cross-Motions for Summary Judgment;
 Remaining Issues**

DOD: 5/14/2004	PUBLIC ADMINISTRATOR was appointed Administrator on 3/29/2006.	NEEDS/PROBLEMS/ COMMENTS:
Cont. from 010313, 040913		
Aff.Sub.W		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
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Letters		
Duties/S		
Objection		
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Aff. Post		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

<p>Notes for Background:</p> <ul style="list-style-type: none"> Decedent's 1997 California Will admitted to probate for administration on 3/27/2006 identified Decedent's parents, ALFREDO BANDA ARRIAGA and REMEDIOS NIETO RODRIGUEZ, parents as the only beneficiaries of Decedent's estate; Decedent's parents were initially to be distributed by <i>Order Settling First and Final Account and Report of Administrator and Allowing Ordinary Commissions and Fees and for Distribution</i> which was signed and filed on 3/12/2007 the assets from the Decedent's estate in the amount of \$189,958.21 at 50% to each; A woman named MARIA LUISA SANCHEZ, purported spouse, asserts that she is the rightful heir of the Decedent entitled to distribution of the entire estate of Decedent; Minute Order dated 11/5/2007 from the hearing on the <i>Petition for Reconsideration of First and Final Account</i> filed by Maria Luisa Sanchez states Decedent's estate should be distributed to Sanchez, as the Court stated that it previously granted Sanchez' <i>Petition for Reconsideration of First and Final Account</i> on 10/12/2007, and that the <i>Order on First and Final Account</i> filed 3/12/2007 distributing the estate to Decedent's parents is revoked. Court also approved a preliminary distribution to Sanchez in the amount of \$103,000.00 on 11/5/2007; the <i>Receipt of Distribution</i> signed by Attorney Fanucchi was filed with the Court on 12/12/2007; PUBLIC ADMINISTRATOR'S Amended First and Final Account filed on 2/29/2012 approved on 6/25/2012 states that after payment of commissions, fees and costs in the amount of \$19,643.43, there will be \$89,703.10 to distribute upon further Court order regarding entitlement to final distribution. <p align="center">~Please see additional page~</p>	<p>Reviewed by: LEG</p> <p>Reviewed on: 7/8/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 29 – Banda-Nieto</p>
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Order on Petitioners' Motion to Deem Admissions Admitted; Respondent's Motion in Limine; and Parties' Letter Memoranda Regarding Issues of Law filed 5/31/2012 states in pertinent part regarding the Motions for Summary Judgment:

- Petitioner Banda-Nieto shall file a motion for summary judgment seeking to establish that Sanchez' petition for reconsideration was untimely by reason of Probate Code § 8270(a). Sanchez shall oppose the motion;
- Sanchez shall file a motion for summary judgment seeking to establish the challenged orders are not void on their faces. Petitioner Banda-Nieto shall oppose the motion.

Order on Parties' Cross-Motions for Summary Judgment filed 2/25/2013 finds, in pertinent part, that the Motion for Summary Judgment brought by Arriaga is denied; the Motion for Summary Judgment brought by Sanchez is granted. Accordingly, it now appears to the Court that only one issue remains to be tried on Arriaga's *Petition to Vacate*: whether the subject orders were the result of extrinsic fraud.

Per the Order on Parties' Cross-Motions for Summary Judgment, the parties filed briefs on the subject of what issues, if any, remain to be tried after the Court's ruling, as follows:

Petitioner's Brief on Remaining Issues to be Tried After Ruling on Cross-Motions for Summary Judgment filed 3/13/2013 by Attorney Alabart for Alfredo Banda Arriaga states, in brief sum:

- The Court found in its Order on Cross-Motion that Respondent Sanchez' Motion for Reconsideration was not untimely because:
 1. A Will contest was time barred pursuant to Probate Code § 8270(a) by the **jurisdictional** *[emphasis in original]* 120 day period for a Will contest;
 2. It sought only revocation of the order on First and Final Account that distributed the estate to the Petitioner and his wife for the purpose of introducing additional evidence; and
 3. The arguing of new or different facts in the Memorandum of Points and Authorities in support of the Motion that Ms. Sanchez was the spouse, or even a putative spouse, and requesting a statutory share of the estate as a "pretermitted heir" is not a Will contest;
- Mr. Arriaga presents that the issues that remain to be tried following the Court's Order are:
 1. Were the subject orders the result of extrinsic fraud;
 2. Did the Court lack jurisdiction to order a preliminary distribution to Ms. Sanchez; and
 3. What, if any, portion of the Decedent's estate is Ms. Sanchez entitled;

Extrinsic fraud and/or Mistake: Specific incidents of extrinsic fraud occurred in this case; whether these were negligent or intentional incidents, they had the effect of preventing and depriving the Petitioner of the opportunity to fully present his claim or defense to the Court, upon which he would have likely prevailed;

1. **Failure of Sanchez' Attorney to Provide Notice of the Court's 8/27/2007 Order.** The Minute Order dated 8/27/2007 does **not** *[emphasis in original]* specifically direct the Clerk of the Court to ensure that all persons entitled to notice receive a copy of the minute order. Pursuant to Probate Code § 1220(a), it is Ms. Sanchez' responsibility to provide notice; this is true even where the Court requires additional notice unless the Court specifies otherwise. Probate Code § 1221. As such, without specific language showing that the Court directed the Clerk of the Court to provide notice of the 8/27/2007 minute order, it was Ms. Sanchez' responsibility to provide notice to the Petitioner. Without the presumption of Evidence Code § 664, the 11/5/2007 order granting Ms. Sanchez' Motion for Reconsideration would be void on its face because proof of delivery of notice of the 8/27/2007 minute order is absent; as such, Mr. Arriaga's *Petition to Vacate Prior Orders* would have to be granted.

Petitioner's Brief on Remaining Issues to be Tried filed 3/13/2013, continued:

Extrinsic fraud and/or Mistake:

2. **Sanchez' Attorney's 11/5/2007 representation that the Court had previously specifically made a finding that the Mexico decree was the valid one:** The Order granting the Motion for Reconsideration signed on 10/12/2007 contains no language about determining the validity of any Mexico order or Will. Based upon misinformation given by Ms. Sanchez' attorney at the 11/5/2007 hearing that the Mexican decree was "recognized", the Court acquiesced and stated: **"All right, we want the minute order to reflect that the Court has granted the motion for reconsideration and has ruled that the Mexican decree is the valid one of the two, is that correct?"** [emphasis in original.] While the Court erroneously indicated, as noted in Mr. Arriaga's *Petition to Vacate Prior Orders*, that it made a finding that the Mexico decree is the valid one, the Court has never made any finding as to what the Mexican Court actually decreed or its validity pursuant to California law.
3. **The oral preliminary distribution request made in Court by Sanchez' attorney:** Sanchez never filed a petition with the Court seeking [preliminary] distribution [pursuant to Probate Code § 11623]; the request for a preliminary distribution was an oral request made in Court by Ms. Sanchez' attorney; such an oral request without appropriate notice was not a matter properly before the Court for determination.
4. **Ms. Sanchez' failure to provide the Mexican Court with the names and address of the Decedent's parents:** When Ms. Sanchez filed the petition for intestate estate administration with the Mexican Court, she knew of the Petitioner's existence and his relationship to the Decedent; Ms. Sanchez also knew the Petitioner's address because she had lived in his home (See *Declaration of A. Banda*; *Declaration of R. Nieto*.) Ms. Sanchez did not provide the Mexican Court with the Petitioner's name or address as required pursuant to Mexican law; instead, she misrepresented to the Mexican Court that she was the sole heir (See *Alleged Petition for Intestate Probate, Mexico*, attached as Exhibit 145 to *Petitioner's Request for Judicial Notice No. 2*.)
5. **Petitioner's reasonable excusable extrinsic mistake resulted in a failure to litigate and defend his claim:** Petitioner in his filed declaration specifically stated that he never received any notice of the proceedings in this matter; without receiving notice of the specific proceedings, Mr. Arriaga reasonably believed he was conclusively entitled to and would receive the money from his son's estate; Mr. Arriaga knew that he and his wife were the only named beneficiaries under the 1997 California Will executed by their son and that a proceeding had been commenced whereby they were to receive the money in California pursuant to that Will; they are not sophisticated or well-educated, and were not represented by an attorney of record in this matter as is being claimed by Ms. Sanchez. As evidenced by the Letter from Alfredo Banda to Mexican Consulate at Fresno dated 1/30/2009 (attached as Exhibit 6 to Sanchez' Opposition), the Petitioner reasonably, excusably, and mistakenly believed that no further action by he and his wife was necessary other than facilitating receipt of the money; had Petitioners received **any notice** of any of the **adversarial** proceedings [emphasis in original], they could have immediately taken steps to protect their interests before the orders were issued; this reasonable, mistaken belief prevented Petitioner from defending his rights.

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Petitioner's Brief on Remaining Issues to be Tried filed 3/13/2013, continued:**The Court Lacked Jurisdiction to Order Preliminary Distribution to Sanchez:**

- The *Order on Parties' Cross-Motions for Summary Judgment* states: "However, it should be noted that the November 5, 2007 order could not exceed the prayer of the redistribution of the estate, the order of 10/22/2007 had already granted the motion for reconsideration." An issue to be determined is whether the Court in fact did exceed the prayer of the Motion for Reconsideration; and, if or when, was the Court moved for distribution?
- A review of the judgment roll would clearly demonstrate that at no time did Ms. Sanchez petition the Court for distribution; the request for preliminary distribution was an oral request made by Court by Ms. Sanchez' attorney; such an oral request was without appropriate notice was not a matter properly before the Court for determination, and might also be considered extrinsic fraud.

To What, if any, Portion of the Decedent's Estate is Sanchez Entitled?

- The *Order on Parties' Cross-Motions for Summary Judgment* determined that Ms. Sanchez has no right to the Decedent's estate under the alleged May 2004 Mexico Will; therefore, Ms. Sanchez' only right to recovery in this proceeding is by pleading and proving up her status and right to inherit as a pretermitted heir;
- Ms. Sanchez has the burden of proving her status and inheritance right as a pretermitted heir, which requires that she must first prove she is recognized in Mexico as a wife or a putative spouse before she can be recognized in California as a spouse or a putative spouse. To prove she was legally married in Mexico, Ms. Sanchez must have been married by the Civil Authority, and she admits she was aware of this requirement and that she and Decedent were not married before the Civil Authority;
- Ms. Sanchez has filed nothing establishing that Mexico recognizes the concept of putative spouses; Mexico **does not** [*emphasis in original*] recognize putative spouses. Because Mexico does not recognize putative spouses, Ms. Sanchez cannot claim she is a putative spouse under California law. While Mexico may recognize the inheritance rights of a concubine, California law does not, and because of this Ms. Sanchez has no status that would entitle her to any portion of the Decedent's estate as an heir of Juventino Banda Nieto, nor entitle her to inherit under the California Will. Therefore, she has no standing before this Court;
- Decedent's assets subject to the Court's jurisdiction in this matter were the separate property of Decedent; therefore, Ms. Sanchez's maximum right to inherit as a pretermitted heir, if proven under California law in this proceeding before this Court, is limited to ½ of Decedent's estate at most; considering that no fees were taken out of the portion preliminarily distributed, Ms. Sanchez has already received more than ½ of Decedent's estate assets; therefore, the Court should order that the remaining assets of the Decedent's estate be immediately distributed to Mr. Arriaga;
- As to the portion of the estate preliminarily distributed by this Court to Ms. Sanchez, the Court at a minimum should require Ms. Sanchez to return a portion of that preliminary distribution representing half of the Public Administrator's and half of the Public Administrator's Attorney's fees and commissions;
- Ms. Sanchez should also be required to post a bond equivalent to the amount of the preliminary distribution she received prior to any further litigation in this matter; any future order of distribution to Ms. Sanchez should be reduced by the proportionate share of the Public Administrator's and Public Administrator's Attorney's fees and commissions;

Petitioner's Brief on Remaining Issues to be Tried filed 3/13/2013, continued:

- In determining to what, if any, distribution Ms. Sanchez is entitled to in this matter, this Court must also necessarily decide to what extent, if any, the subsequent orders of the Mexico court are controlling.

Conclusion

The issues remaining to be tried after the *Order on Parties' Cross-Motions for Summary Judgment* depends in part on the extent the Order resolved issues in dispute in this matter; as such, several factual issues still remain to be determined; the Petitioner has attempted to the best of his knowledge and ability to identify all of the remaining issues that still must be determined in this matter; to that extent, the remaining issues for determination by this Court are: (1) the issues discussed above, and (2) those that must be necessarily decided to resolve the identified issues. Some of the issues identified and discussed require purely legal determinations, while others require purely factual determinations; and, in some instances, factual and legal determinations by this Court.

Status Conference Brief Following Decision of Motions for Summary Judgment filed 3/12/2013 by Attorney Fanucchi for Maria Luisa Sanchez states, in brief sum:

1. **The Sanchez Orders are not void as being the product of extrinsic fraud:** extrinsic fraud exists in situations where one party has fraudulently prevented another party from presenting their claim or defense in the action; a party must show he or she had a meritorious defense, which would have been raised but for the other party's wrongful conduct, and must also establish all of the elements of fraud, which include an intentional or reckless misrepresentation and justifiable reliance on the misrepresentation by the aggrieved party; Mr. Arriaga has not made, and cannot make, the required showing.
 - **The Sanchez Orders cannot be set aside on the ground of extrinsic fraud because Mr. Arriaga had notice of Ms. Sanchez' motion and was not prevented from opposing that motion:** As previously decided by the Court in its order on the parties' cross-motions for summary adjudication, Mr. Arriaga had actual notice of Ms. Sanchez' motion that resulted in the entry of the Sanchez Orders because they were served on him at the address conclusively determined to be his address for service by the Court's order admitting the Will to probate; Mr. Arriaga has presented no evidence that Ms. Sanchez did anything to prevent him from participating in this action or from opposing her Motion for Reconsideration if he wished to do so; there is simply no showing of extrinsic fraud which would provide a basis for setting aside the Sanchez Orders for lack of notice.
 - **Failure to serve notice of entry of the Sanchez Orders does not constitute extrinsic fraud:** The position taken by Mr. Arriaga is that he has never received any notice of any proceeding or order in this action; he does not contend or present any evidence suggesting that Ms. Sanchez made any misrepresentation to him, or that he relied on any misrepresentation made to him by Ms. Sanchez; Mr. Arriaga, has not alleged, and cannot show, that his not being served with notice of entry of the Sanchez Orders constitutes extrinsic fraud that would justify setting aside the orders.

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Status Conference Brief [of Sanchez] Following Decision of Motions for Summary Judgment filed 3/12/2013, continued:

- **The alleged presentation of false or incomplete evidence as the basis for the Sanchez Orders does not constitute extrinsic fraud:** A large portion of Mr. Arriaga's petition is provocative and inflammatory rhetoric aggrandizing his claim that the Sanchez Orders are the result of an intentional conspiracy, the intentional suppression or concealment of relevant evidence and presentation of false testimony and fraudulent documents to the Court by Ms. Sanchez and her attorneys, including Mr. Fanucchi; even assuming for the sake of argument that Mr. Arriaga's outrageous claim was true, and that the Sanchez Orders were based on false and incomplete evidence, the result is still that the Sanchez Orders may not be set aside and are conclusive and binding on Mr. Arriaga; a claim that an order is the result of presentation of false evidence in the proceeding which resulted in the order is a claim of intrinsic fraud – not extrinsic fraud – and will not support setting aside the order after it has become final; since Mr. Arriaga's claims of fraud and concealment constitute, at most, a charge of intrinsic fraud, they patently do not provide a legally sufficient basis to set aside the Sanchez Orders *[emphasis in original]*.
 - **Alleged legal error resulting in entry of the Sanchez Orders does not constitute extrinsic fraud:** Mr. Arriaga's petition also alleges that the Sanchez Orders are void because the Court did not correctly apply the applicable law; this allegation does not demonstrate extrinsic fraud and cannot be used to collaterally attack the Sanchez Orders; Mr. Arriaga's petition makes several allegations suggesting that the Sanchez Orders are the product of the Court's misapplication of the law; all of the allegations are impermissible collateral attacks on the Sanchez Orders based on alleged legal errors in the prior proceedings, and such alleged errors are intrinsic to the proceedings and the law expressly mandates that such attacks cannot be entertained or granted by the Court because the Sanchez Orders have been final for years;
2. **Conclusion:** The only issue of which Ms. Sanchez is aware as being left for resolution prior to disposing of Mr. Arriaga's petition is that identified by the Court – whether the Sanchez Orders may be set aside as being products of extrinsic fraud; the facts and law make it clear that this issue must be resolved against Mr. Arriaga and in favor of the validity of the Sanchez Orders. Mr. Arriaga's petition does not allege extrinsic fraud of any sort; rather, his petition alleges at most, examples of intrinsic fraud and legal error that will not support a collateral attack on the Sanchez Orders or any order by this Court setting aside the Sanchez Orders. Since Mr. Arriaga has at no time in this proceeding alleged, in his petition or any other filing, an example of extrinsic fraud that would support setting aside the Sanchez Orders, Ms. Sanchez respectfully requests the Court enter a judgment of dismissal in her favor.

Status Report [unverified] filed by Attorney Fanucchi on 7/3/2013 states: There has been no further activity in this matter since the last hearing before the Court.